

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Lisa Norbury Kilian,
Petitioner-Appellant,

v.

Polk County Board of Review,
Respondent-Appellee.

ORDER

Docket No. 11-77-1270
Parcel No. 291/00367-350-031

On July 27, 2012, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) and Iowa Administrative Code rules 701-71.21(1) et al. Petitioner-Appellant Lisa Norbury Kilian requested her appeal be considered without hearing. She was self-represented. Assistant County Attorneys David Hibbard and Ralph E. Marasco, Jr. represent the Board of Review. The Appeal Board now having examined the entire record, and being fully advised, finds:

Findings of Fact

Lisa Norbury Kilian, owner of property located at 12821 Sunset Terrace, Clive, Iowa, appeals from the Polk County Board of Review decision reassessing her property. According to the property record card, the subject property consists of a two-story, dwelling having 2728 square feet of living area and a 684 square-foot, attached garage built in 1993. The dwelling has full basement with 764 square feet of average quality finish, a 240 square-foot open porch, and a 204 square-foot deck. It has a good quality (3+00) construction grade and is in normal condition. The improvements are situated on 0.278 acres.

The real estate was classified as residential on the initial assessment of January 1, 2011, and valued at \$295,100, representing \$60,200 in land value and \$234,900 in dwelling value.

Kilian protested to the Board of Review on the ground that the assessment was not equitable as compared with the assessments of other like property in the taxing district under Iowa Code section 441.37(1)(a). She also attached a letter to her petition listing recent sales information for property similar to hers. This attachment raises an additional claim based on market value and is essentially claiming that the property is assessed for more than authorized by law under section 441.37(1)(b). The Board of Review granted the protest, in part, and reduced the value to \$283,400, representing \$60,200 in land value and \$223,200 in dwelling value, based on market data.

Kilian then filed her appeal with this Board on the same grounds. She requested a reduction in value to \$274,000, allocated as \$60,200 to land value and \$213,800 to dwelling value.

Kilian listed three properties for equity comparisons on her Board of Review petition; however, she provided the 2010 assessments for the properties, but none of them appeared to have sold recently. This information is insufficient to show inequity in the assessment.

Killian's letter reports that her own review of five properties within one-half mile of her property indicates that many are selling for substantially less than the assessed value. She found that these properties, which sold between the fourth quarter of 2009 and the present, were sold for approximately 12% below their assessed value at the time of sale. While this information may be true, no supporting documents were submitted for this Board to determine the actual comparability of these properties to the subject. Additionally, some of the 2009 sales may be less indicative evidence of the 2011 value of Killian's own property.

Finally, Killian identifies a property located at 12841 Sunset Terrace to support her over-assessment claim. That property is similar to the subject property in location, age, aboveground living area, garage size, and site. It has more basement finish, but is otherwise comparable to Killian's property. She reports the property was listed for over one year for \$300,000; the price was then reduced to \$285,000. The property sold in May 2011 for \$272,000. We recognize this sale occurred

five months after the assessment date; however it appears to be a normal-arm's length transaction, and the sale price does support Kilian's claim of over-assessment.

The Board of Review Appraiser Analysis recommended the subject property's assessment be reduced based on market data. In the appraiser's opinion, a list of recent sales that are similar in the neighborhood as well as the assessor's office market comparable properties support a lower value for Killian's property. The record includes four sales of comparable properties that occurred in 2010. Unadjusted sale prices ranged from \$228,000 to \$340,000, or \$100.39 to \$116.83 per square foot. Adjusted sale prices ranged from \$207,957 to \$303,601, or \$68.45 to \$123.23 per square foot. While it appears these sales were adjusted based on cost data, the appraiser found them reliable indicators of value for the subject property and determined an indicated market value of \$275,010. Additionally, the appraiser opined a value of \$274,000 using the cost method. Ultimately, the appraiser recommended the Board of Review reduce Killian's assessment to \$274,000.

Viewing the record as a whole, we find the preponderance evidence supports Kilian's claim that her property was over-assessed as of January 1, 2011. First, Killian's assertion is supported by the recent sale of a similar property in her neighborhood. Moreover, the most persuasive evidence in the record, the assessor's office appraiser analysis completed for the Board of Review, indicates the subject property's market value is \$274,000.

Conclusion of Law

The Appeal Board applied the following law.

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A (2011). This Board is an agency and the provisions of the Administrative Procedure Act apply to it. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review related to the liability of the property to assessment or the assessed amount. § 441.37A(3)(a). The Appeal Board considers only

those grounds presented to or considered by the Board of Review. § 441.37A(1)(b). But new or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption that the assessed value is correct. § 441.37A(3)(a).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. *Id.* "Market value" essentially is defined as the value established in an arm's-length sale of the property. § 441.21(1)(b). Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available, "other factors" may be considered in arriving at market value. § 441.21(2). The assessed value of the property "shall be one hundred percent of its actual value." § 441.21(1)(a).

In an appeal that alleges the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(b), there must be evidence that the assessment is excessive and the correct value of the property. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). The sales price of comparable property in a normal transaction is a matter to be considered in arriving at market value but does not conclusively establish that value. § 441.21(1)(b); *Riley v. Iowa City Board of Review*, 549 N.W.2d 289, 290 (Iowa 1996). In this case, we find the comparable property's purchase was an arms-length transaction and the purchase price is a strong indication of the fair market value of Kilian's property. This, coupled with the Board of Review appraiser analysis, supports the conclusion that Kilian's property is over-assessed. Kilian proved by a preponderance of the evidence that her property is over-assessed and the fair market value of the property as of \$274,000.

Therefore, we modify the property assessment as determined by the Board of Review to \$274,000, representing \$60,200 in land value and \$234,900 in dwelling value as of January 1, 2011.

THE APPEAL BOARD ORDERS that the January 1, 2011, assessment as determined by the Polk County Board of Review is modified as set forth above.

The Secretary of the State of Iowa Property Assessment Appeal Board shall mail a copy of this Order to the Polk County Auditor and all tax records, assessment books and other records pertaining to the assessment referenced herein on the subject parcel shall be corrected accordingly.

Dated this 6 day of September 2012.

Jacqueline Rypma
Jacqueline Rypma, Presiding Officer

Richard Stradley
Richard Stradley, Board Chair

Copies to:

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Certificate of Service	
The undersigned certifies that the foregoing instrument was served upon all parties to the above cause & to each of the attorney(s) of record herein at their respective addresses disclosed on the pleadings on <u>9-6</u> , 201 <u>2</u>	
By:	<input checked="" type="checkbox"/> U.S. Mail <input type="checkbox"/> FAX
	<input type="checkbox"/> Hand Delivered <input type="checkbox"/> Overnight Courier
Signature	<u>[Signature]</u>